

Application No.: 09/988,455

2000P20541US  
Gritzbaeh et al.**REMARKS/ARGUMENTS*****Claim Status***

After entry of this Amendment, Claims 1 – 5, 7, 9, 10, 12, 13 and 16 – 18 are pending in this application. By this Amendment, Claims 1 and 12 are amended, and Claims 8, 11 and 15 are cancelled. Claims 6, 14, 19 and 20 have been previously cancelled.

***Claim Rejections – 35 U.S.C. § 103***

The Examiner rejects Claims 1 – 5, 7 – 13, 15, 16 and 18 under 35 U.S.C. § 103(a) as being unpatentable over **Pfeifer** (U.S. Pat. No. 5,987,519), **Oba** (U.S. Pat. No. 5,038,800), **Zaitsu** (U.S. Pat. Publication No. 2002/0013551) and further in view of **Peddicord** (U.S. Pat. No. 6,402,691). As to Claim 1, the Examiner asserts that **Pfeifer** fails to expressly teach displaying measurement data and/or diagnosis data on a local monitor, and that this feature is well known in the art, as evidenced by **Oba**. Further, the Examiner asserts that **Pfeifer** fails to expressly teach actively controlling the selected diagnosis instrument since it appears that **Pfeifer** is more directed to a medical device interface of video and voice. However, the Examiner asserts that this feature is well known in the art, as evidenced by **Zaitsu**. In addition, the Examiner asserts that **Pfeifer** fails to expressly teach a display unit operatively coupled to the data processor, as defined in Claim 1. However, the Examiner asserts that this feature is well known in the art, as evidenced by **Peddicord**. The Examiner concludes that it would have been obvious to include the teachings of **Oba**, **Zaitsu** and **Peddicord** to **Pfeifer's** device. Applicants respectfully traverse.

Referring initially to newly cited **Peddicord**, Applicants respectfully submit that **Peddicord** does not disclose or suggest the Claim 1 features the Examiner asserts are missing in **Pfeiffer**. **Peddicord** relates to an in-home patient monitoring system having workstations 66 and remote monitoring units 10 at patient sites, as shown in Fig. 3. Each remote monitoring unit 10 has a display 28, and the workstations 66 are connected to a main data collection station 12, as shown in Fig. 2. (Col. 2, lines 36 – 46.)

**Peddicord**, however, does not disclosure that the workstations 66 monitor or control the remote monitoring units 10 during patient examinations. Rather, vital sign data recorded by the remote monitoring units 10 and addressed to the main data

Application No.: 09/988,455

2000P20541US  
Gritzach *et al.*

collection station 12 is first stored in a network storage unit 14 for up to 72 hours. (Col. 4, lines 39 – 45.) Then, the network storage unit 14 transfers the vital sign data to a database server 56, which includes a patient database 58 to store the vital signs of the patients. (Col. 4, lines 50 – 56.) To allow access to the data stored in the database server 56 by a workstation 66, the data is converted to an appropriate format. (Col. 5, lines 5 – 11.) Hence, **Peddicord** teaches collecting data and monitoring of the collected data. The system allows a pre-determined time period (e.g., 30 minutes) for acknowledging the vital sign data. (Col. 5, lines 21 – 40.)

Moreover, the displays 28 of the remote monitoring units 10 display each measurement result individually after a measurement, e.g., a patient's weight as soon as the patient steps on a scale. (Col. 6, lines 17 – 26, and 60 – 62; see also Figs. 5a, step 94, and Fig. 5b, step 128.). The workstations 66, however, display the collected data to allow health care personnel to monitor the daily vital sign data. (Col. 10, lines 4 – 11.) Therefore, in **Peddicord**, the workstations 66 do not display data corresponding to the data displayed on the displays 28 of the remote monitoring units 10, i.e., not in the same way.

In sum, Applicants respectfully submit that **Peddicord** does not disclose or suggest a system that allows active intervention by a central operator. As discussed, **Peddicord** teaches collecting data and monitoring of the collected data. As such, **Peddicord** at least fails to teach a display unit, as defined in Claim 1, that allows the central operator to monitor and control the diagnosis instruments during patient examinations. Hence, in view of **Peddicord**'s failure to disclose these features, even a combination of **Pfeifer**, **Oba**, **Zaitzu** and **Peddicord** does not disclose all limitations of Claim 1, and does not render Claim 1 obvious.

Notwithstanding the propriety of the present rejections, Claim 1 is amended, as set forth in the above listing of claims, to further emphasize the real time operation of the system, in particular the active intervention in real time by the central operator. Accordingly, Claims 8 and 11 are cancelled. Amended Claim 1 further emphasizes that the display unit is configured to display the data in the same way as a respective local monitor. Independent Claim 12 is amended correspondingly.

No new matter is added by these amendments because the present specification describes in [0017] that the display unit displays the data in the same way as the local monitor, that the local monitor may be presented on the display unit,

Application No.: 09/988,455

2000P20541US  
Gritzbaeh et al.

and that the display unit may have a plurality of monitors and may be designed as a split screen. Further, [0038] describes, and Fig. 1 shows the display unit as having four display devices. The data is presented to a physician simultaneously, as described in [0044]. The physician, therefore, has representations of all local monitors available at the same time and can select one diagnosis instrument from the diagnosis instruments represented on the display unit. The system according to amended Claim 1 allows a doctor to be virtually present during a patient examination, and to intervene actively in the events on site, as explained in [0045], lines 11 – 17. The cited references do not teach such a medical diagnosis management system.

**Pfeifer, Oba and Zaitsu** have been previously discussed. For ease of reference, **Pfeifer, Oba and Zaitsu** are summarized as follows:

**Pfeifer** teaches a telemedicine system for communicating video, voice and medical data between the central monitoring station 11 and the patient monitoring station 18. **Pfeifer's** features include outputting videoconferencing information to a display screen, and interpreting diagnostic data. Notably, **Pfeifer** highlights that a healthcare worker would not have to participate in a diagnostic session. (Col. 3, lines 13 – 18.) **Pfeifer**, therefore, teaches away from allowing active intervention in real time by a central operator.

**Oba** teaches a system for monitoring a patient using a LAN to connect a central monitor to one or more bedside monitors. (Abstract.) However, the central monitor displays only data related to a single patient/bed. (Fig. 2, col. 2, lines 54 – 63, Claim 1.) **Oba** fails to teach a display unit that simultaneously displays representations of local monitors, as defined in amended Claims 1 and 12.

**Zaitsu** discloses a pump monitoring system, wherein the display 101 is part of a central portion (see para. 55), but the pumps do not include local monitors allowing a local operator to monitor the diagnosis instrument at a patient site during a patient's examination. Absent any local monitor, **Zaitsu** cannot teach a display unit that simultaneously displays representations of local monitors, as defined in amended Claims 1 and 12.

In view of the foregoing and the previously submitted arguments, Applicants submit that **Pfeifer, Oba, Zaitsu and Peddicord** do not disclose or suggest each and every limitation recited in amended Claims 1 and 12, and, consequently, do not render the subject matter of amended Claims 1 and 12 obvious. Applicants respectfully

Application No.: 09/988,455

2000P20541US  
Gritzbach *et al.*

encourage the Examiner to reconsider **Pfeifer, Oba, Zaitso and Peddicord** in view of the above arguments and amended Claims 1 and 12, and to pass amended Claims 1 and 12 to allowance.

Claims 2 – 5 and 7, 9 and 10 depend from amended Claim 1, and Claims 13 and 16 – 18 depend from amended Claim 12. Each dependent claim adds additional inventive features to the subject matter of the respective independent Claim 1 or 12. The above arguments regarding Claims 1 and 12 are repeated herewith for each one of the dependent claim. Accordingly, each dependent claim is separately patentable over the cited references. Applicants respectfully request the Examiner to pass Claims 2 – 5, 7, 9, 10, 13 and 16 – 18 to allowance.

The Examiner rejects Claim 17 under 35 U.S.C. § 103(a) as being unpatentable over **Pfeifer, Oba, Zaitso, Peddicord** and further in view of **Surwit** (U.S. Pat. No. 6,024,699). Claim 17 depends from independent Claim 12. The above arguments are repeated herein. **Surwit** does not provide the missing teachings discussed above to anticipate nor render obvious amended Claim 12. Accordingly, at least for the above reasons and because of the additional inventive features recited in Claim 17, Claim 17 is also allowable and reconsideration and withdrawal of the rejection are respectfully requested.

#### **Summary of response**

Applicants have responded to the rejections in the September 25, 2007 Office Action by presenting the foregoing amendments and arguments. Applicants respectfully submit that Claims 1 – 5, 7, 9, 10, 12, 13 and 16 – 18 are in condition for allowance. Applicants respectfully request the Examiner to withdraw all rejections and to pass this application to the issue process.

#### **Request for telephone interview**

The undersigned has made a good faith effort to respond to the objection and to all of the rejections raised in the Office Action so as to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call the undersigned attorney of record at the telephone number listed below in order to resolve such issues promptly.


Application No.: 09/988,455

2000P20541US  
Gritzach *et al.*

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 502464 referencing attorney docket number 2000P20541US.

Respectfully submitted,

Date: 1/24/08

  
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